

UNITED STATES OF AMERICA
UNITED STATES COAST GUARD vs.
MERCHANT MARINER'S DOCUMENT NO. Z-267-04-3892-D1
Issued to: LEGGETTE N. JONES

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

2019

LEGGETTE N. JONES

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.30-1, now 5.30-1.

By order dated 8 February 1974, an Administrative Law Judge of the United States Coast Guard at Houston, Texas, suspended Appellant's seaman's documents for four months outright plus three months on nine months' probation upon finding him guilty of misconduct. The specification found proved that while serving as an Able Seaman on board the SS HURRICANE under authority of the document above-captioned, on or about 24 January 1974, Appellant, while the vessel was underway in the Houston Ship Channel, did wrongfully assault and batter a member of the crew, Jimmy Garner.

At the hearing, Appellant elected to act as his own counsel and entered a plea of not guilty to the charge and specification.

The Investigating Officer introduced in evidence the testimony of two witnesses and certain documentary evidence.

In defense, Appellant offered in evidence his own testimony and that of two witnesses.

At the end of the hearing, the Judge rendered an oral decision in which he concluded that the charge and specification had been proved. He later entered an order suspending all documents, issued to Appellant, for a period of four months outright plus three months on nine months' probation.

The entire decision and order was served on 12 February 1974. Appeal was timely filed on 15 February 1974.

FINDINGS OF FACT

On 24 January 1974, Appellant was serving as an Able Seaman on board the SS HURRICANE and acting under authority of his document while the ship was underway in the Houston Ship Channel. At approximately 1100 on that date, the bosun, Jimmie Garner, informed

Appellant that he was to be fired effective upon the vessel's arrival in Houston. Garner stated that he was acting under orders of the chief mate, whom he presumed to be motivated by Appellant's failure to get along with other members of the crew who had threatened to leave the vessel's employ.

At approximately 1535, Appellant accosted Garner in the mess room to further discuss the grounds for termination of the former's employment. During the course of the conversation, Appellant, without provocation, struck Garner in the face two or three times.

When Garner attempted to leave the room to report the assault, he found the doorway blocked by one Anthony Jones, whom he found it necessary to by-pass forcibly.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Administrative Law Judge. It is contended that the findings of the Administrative Law Judge are not supported by the evidence.

APPEARANCE: Appellant, pro se

OPINION

The Administrative Law Judge relied principally upon Garner's testimony to the effect that Appellant struck him. Appellant's defense at the hearing was that Garner's facial injuries resulted from his purposely stumbling into the mess room door frame. The above-mentioned Anthony Jones was the principal witness to this effect.

As is clearly stated in the Judge's opinion, Garner's testimony was accorded decided weight in terms of credibility. It is exclusively the Judge's function to assess the credibility of witnesses, and the review of his exercise of this responsibility is limited to a determination of whether a reasonable man could reach the ultimate decision of the Judge on the basis of the same evidence. In the present case, it was certainly not unreasonable for the Judge to disbelieve the contention that Garner intentionally inflicted facial injuries upon himself with a view to having Appellant fired. Furthermore, as Garner's testimony was by no means inherently incredible, it is clear that the Judge's findings are supported by substantial evidence of a reliable and probative nature.

ORDER

The order of the Administrative Law Judge dated at Houston,

Texas, on 8 February 1971, is

AFFIRMED.

E. L. PERRY
Vice Admiral, U.S. Coast Guard
Vice Commandant

Signed at Washington, D. C., this 11th day of March 1975.

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